THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 11817 of 2007

Order:

The petitioner states that pursuant to the notification No.5/2006, issued by the respondent-Company, he applied for the post of Trainee Khalasi, and the respondent-Company has issued call letter to him to attend for the physical test to be conducted on 12.02.2007. Accordingly, he attended for the physical test comprising Running, 50 Kg weigh lifting and Pull-ups. Having satisfied with his performance in the physical test, the respondent-Company issued another call letter for attending the interview to be conducted on 13.02.2007. However, it is the contention of the petitioner that he was not allowed to attend the interview on 13.02.2007 on the ground that he is not having Employment Registration Card and that his name was not sponsored by the Employment Exchange. Questioning the said action of the respondent-Company, the petitioner filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Company.

The apex Court in ***Excise Supdt. Malkapatnam V., K.B.N. Visweshwara Rao***[1] held that restricting the selection only to the candidates sponsored by employment exchange is not proper. The operative portion of the said judgment reads thus:

> "Having regard to the respective contentions, we are of the view that contention of the respondents is more acceptable which would be consistent with the principles of fair play, justice and equal opportunity. It is common knowledge that many a candidate is unable to have the names sponsored, though their names are either registered or are waiting to be registered in the employment exchange, with the result that the choice of selection is restricted to only such of the candidates whose names come to be sponsored by the employment exchange. Under these circumstances, many a

> deserving candidate is deprived of the right to be considered for appointment to a post under the State. Better view appears to be that it should be mandatory for the requisitioning authority/establishment to intimate the employment exchange and employment exchange should sponsor the names of the candidates to the requisitioning departments for selection strictly according to seniority and reservation, as per requisition. In addition, the appropriate department or undertaking or establishment should call for the names by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and employment news bulletins; and then consider the cases of all the candidates who have applied. If this procedure is adopted, fair play would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates."

The learned Standing Counsel for the respondent fairly admitted that the respondent cannot refuse the petitioner to attend the interview on the ground that he is not having Employment Registration Card and that his name has not been sponsored by the Employment Exchange and that such an action is contrary to the aforesaid judgment of the Supreme Court. He further submitted that having regard to the fact that more number of candidates passed in the Physical Test, the respondent is once again conducting meticulous Physical Test on 20.06.2007, and the respondent be directed to permit the petitioner also to participate in the said Physical Test.

In view of the stand taken by the respondent, I deem it appropriate to dispose of the writ petition with the following directions:

The respondent is directed to permit the petitioner to participate in the Physical Test to be conducted on 20.06.2007 along with other candidates, and if the petitioner is selected in the Physical Test, he shall be called for interview and allowed to participate in the interview, without insisting that his name should be sponsored by the Employment Exchange.

Accordingly, the writ petition is disposed of. No costs.

N.V. RAMANA, J.

Dated: 19th June, 2007.

Note:

Wire at party's cost.
(B/o)
KSR

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1 (1996) 6 Supreme Court Cases 216